

13. (Amended) The magnetic display device according to claim 10, said upper transparent flat-sheet member comprising a transparent non-magnetic layer and a luster layer having luster selected from iridescent luster, iridescence and hologram appearance.

14. (Amended) The magnetic display device according to claim 11, said upper transparent flat-sheet member comprising a transparent non-magnetic layer and a luster layer having luster selected from iridescent luster, iridescence and hologram appearance.

REMARKS

Claims 9-14 have been amended in order to recite the present invention with the specificity required by statute or for better conformity with accepted U.S. practice.

Accordingly, no new matter has been added.

I. Status of the Case

Applicants respectfully request that finality be withdrawn herein as premature. In that regard, at the outset, the February 7, 2002 Amendment was plainly not responsive to the Office Action dated November 6, 2001 (Paper No. 14). Obviously, that Amendment addressed neither the rejection of claims 9, 10 and 12 under 35 USC § 102(b) as anticipated by Okutsu (U.S. Patent No. 4,288,936), nor the rejection of claims 11, 13 and 14 under 35 USC § 103 as obvious over Okutsu in view of Ohashi (U.S. Patent No.

5,674,104).

As such, the instant Office Action dated April 19, 2002 (Page No. 16) could not be made "final", and indeed, should not have been issued. Entry of a Patent Office communication vacating the April 19, 2002 Office Action, or withdrawal of the same is, therefore, respectfully requested. In that regard, if necessary for consideration of Applicants' request, the Examiner is hereby authorized to treat this paper as a Petition to Withdraw Final Office Action, or a Petition Vacating Final Office Action, etc. If so, any necessary fees for consideration of that Petition may be charged to Deposit Account No. 06-1205.

II. Status of the Claims

Claims 9, 10 and 12 are rejected under 35 U.S.C. §102(b) as being anticipated by Okutsu (U.S. Patent No. 4,288,936). Claims 11, 13 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Okutsu in view of Ohashi et al. (U.S. Patent No. 5,674,104).

III. The Present Invention is Unobvious Over the Prior Art

As the Examiner will appreciate, a salient feature of the present invention is a magnetic imaging device which provides a black display formed by combining black magnetic particles with an upper transparent lustrous sheet, e.g., a transparent upper sheet which is either iridescent, has iridescent luster or a hologram appearance. These features are simply neither taught nor suggest by the prior art.

A. Okutsu Does Not Anticipate Any of Claims 9, 10 or 12

Okutsu teaches a magnetic display device having a cell comprising magnetic particles, a coloring agent (white or yellow pigment), a dispersing medium and thickener. Okutsu thus differs essentially from the present invention. That is, the display device of Okutsu operates by having the magnetic particles migrate upward to provide a visible image formed by the magnetic particles on a background of the white or yellow coloring agent.

However, Okutsu does not teach any structure for making visible a metallic luster image exhibited by mixture of the black image (formed by black magnetic particles) with the luster selected from iridescent luster, iridescence and hologram appearance. At the very least, Okutsu does not teach or suggest a luster. Nor is this deficiency addressed by the secondary reference.

B. No Claim is Obvious over Okutsu Even taken with Ohashi

As discussed, Okutsu does not teach a display device which promise an image by combining black magnetic particles with iridescence, iridescent luster or hologram. However, Ohashi does not teach or suggest this subject matter either.

Ohashi is cited as teaching a magnetic display device which utilizes microcapsules containing oily liquid, photoabsorptive ferromagnetic powder and photoreflective non-magnetic powder. However, Ohashi too has no teaching of any structure having an upper lustrous flat-sheet, e.g., a member with luster selected from iridescent luster, iridescence and hologram appearance. None of the prior art, even taken collectively, provides a black image formed by combining black magnetic particles with a lustrous flat sheet member to provide a metallic luster image, as recited in the pending

claims. Accordingly, respectfully submitted, the Examiner has not made out a prima facie case of obviousness.

IV. The Invention is Unexpectedly Superior Over the Closest Prior Art

Even if, arguendo, the prior art is thought to make out a prima facie case of obviousness, such is still rebutted by the unexpected improvements attained by the present invention, as shown below and the accompanying sample.

The present inventor provided a magnetic display device generally prepared according to Example 2 of the present application. However, for the Examiner's consideration, only the left side (half) of the upper surface portion is provided with an iridescent luster layer according to the pending claims. The right side (half) of the display is a magnetic display device, but with no iridescent luster layer, in conformity with the closest prior art. As the Examiner will readily appreciate, there is a strikingly different appearance achieved by the present invention. Moreover, those of ordinary skill can readily employ that difference.

V. Conclusion

In view of the above amendments and remarks, Applicants submit that all of the Examiner's concerns are now overcome and the claims are now in allowable condition. Accordingly, reconsideration and allowance of this application is earnestly solicited.

Claims 9-14 remain presented for continued prosecution.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lawrence S. Perry", is written over a horizontal line.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE TO CLAIMS

9. (Amended) A magnetic display device, comprising:

an upper transparent flat-sheet member having luster selected from iridescent luster, iridescence and hologram appearance, said upper flat-sheet member being formed of a non-magnetic material, and a lower flat-sheet member formed of a non-magnetic material arranged parallel to said upper transparent flat-sheet member, with a dispersion medium, white pigments and black magnetic particles admixed between the flat-sheet members, thereby an image being caused to appear or disappear upon movement of the black magnetic particles present between the flat-sheet members,

said image being visible through the upper transparent flat-sheet member,

whereby when said image disappears said black magnetic particles settle downward away from upper transparent white pigments exhibit a white display, and when said image appears said black magnetic particles migrate upward towards said upper transparent flat-sheet member, said image being formed by a metallic luster color exhibited by mixture of appearance of said migrated black magnetic particles with said luster.

10. (Amended) A magnetic display device, comprising:

a transparent flat-sheet member having luster selected from iridescent and hologram appearance, said flat-sheet member being formed of a non-magnetic material, and a plurality of microcapsules encapsulating an admixture of a

dispersion medium, pigments and black magnetic particles fixed to the under surface of the transparent flat-sheet member, thereby an image being caused to appear or disappear upon movement of the black magnetic particles present in the microcapsules, said image being visible through the transparent flat-sheet member,

whereby when said image disappears said black magnetic particles settle downward away from said under surface of the transparent flat-sheet member and said white pigments exhibit a white display, and when said image appears said black magnetic particles migrate upward toward said under surface of the transparent flat-sheet member, said image being formed by a metallic luster color exhibited by mixture of appearance of said migrated black magnetic particles with said luster.

11. (Amended) The magnetic display device according to claim 10, further comprising[:] a lower flat-sheet member formed of a non-magnetic material [and] arranged parallel to said upper transparent flat-sheet member, said microcapsules being fixed between said upper flat-sheet member and said lower flat-sheet member.

12. (Amended) A magnetic display device according to claim 9, [wherein] said upper transparent flat-sheet member [includes] including a transparent non-magnetic layer and an [luster layer having luster selected from iridescent] luster layer, said upper transparent member [includes] including a transparent non-magnetic layer and iridescence and hologram appearance.

13. (Amended) The magnetic display device according to claim 10,
[wherein] said upper transparent flat-sheet member [includes] comprising a transparent
non-magnetic layer and a luster layer having luster selected from iridescent luster,
iridescence and hologram appearance.

14. (Amended) The magnetic display device according to claim 11,
[wherein] said upper transparent flat-sheet member [includes] comprising a transparent
non-magnetic layer and a luster layer having luster selected from iridescent luster,
iridescence and hologram appearance.

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